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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, JANUARY 14, 1999

PETITION OF

KENTUCKY UTILITIES COMPANY

D/B/A OLD DOMINION POWER COMPANY

CASE NO. PUE960303

For injunctive relief and/or  
declaratory judgment against  
Powell Valley Electric Cooperative

ORDER ON MOTIONS

On November 18, 1998, Kentucky Utilities Company d/b/a/ Old Dominion Power ("ODP") and Powell Valley Electric Cooperative ("PVEC") filed their respective comments on the Hearing Examiner's Report ("the Report") issued in this proceeding on October 19, 1998. On December 17, 1998, ODP filed a motion for leave to file supplemental comments on the Report. ODP asserts that PVEC, in its comments, raised for the first time the issue of intergovernmental immunity as a defense to ODP's petition. ODP moved that its supplemental comments on this issue, which were served and filed with its motion, be ordered filed as of record, or, alternatively, that PVEC's comments on the issue be stricken from the record.

On December 28, 1998, PVEC filed an objection and motion to strike in response to ODP's motion. PVEC sought to strike ODP's supplemental comments, or, alternatively, to be permitted to

respond to ODP's supplemental comments. ODP filed a reply to PVEC's motion on January 7, 1998, urging that PVEC's request to file further comments be denied.

NOW THE COMMISSION, upon consideration of ODP's motion, PVEC's objection and motion, and ODP's reply, is of the opinion and finds that: ODP's motion for leave to file supplemental comments should be granted; PVEC's motion to strike should be denied; and PVEC should be given the opportunity to further respond to ODP's supplemental comments. Accordingly,

IT IS ORDERED THAT:

(1) ODP's motion for leave to file supplemental comments on the Hearing Examiner's Report of October 19, 1998, is GRANTED, and its supplemental comments filed with its motion are hereby filed as of record;

(2) PVEC's motion to strike ODP's supplemental comments is DENIED, however, PVEC may, on or before January 22, 1999, file supplemental comments addressing only the issue of intergovernmental immunity.